

PTO/SB/64 (09-04)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

240.1PCD

First named inventor: Tomas Cihlar

**CUSTOMER NO: 25000**

Application No.: 10/086,816

Art Unit: 1646

Filed: February 28, 2002

Examiner: Joseph F. Murphy

Title: NOVEL GENE ENCODING ORGANIC ANION TRANSPORTER

Attention: Office of Petitions

**Mail Stop Petition**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions  
Information at (703) 305-9282.The above-identified application became abandoned for failure to file a timely and proper reply to a notice or  
action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration  
date of the period set for reply in the office notice or action plus an extensions of time actually obtained.**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications  
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**☐ Small entity-fee \$ \_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☒ Other than small entity - fee \$ 1,500.00 (37 CFR 1.17(m))**2. Reply and/or fee**A. The reply and/or fee to the above-noted Office action in  
the form of an Amendment (identify type of reply):☒ has been filed previously on February 28, 2005 05/24/2005 SLUANG1 00000019 071250 10086816  
☐ is enclosed herewith.

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B. The issue fee and publication fee (if applicable) of \$ \_\_\_\_\_.

☐ has been paid previously on \_\_\_\_\_.  
☐ is enclosed herewith.

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This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the  
USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to  
complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any  
comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer,  
U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED  
FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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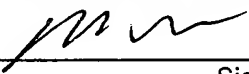
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## 3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

	<u>05/19/05</u>
Signature	Date
<u>Mark Bosse</u>	<u>35,071</u>
Typed or printed name	Registration Number, if applicable
<u>Gilead Sciences, Inc.</u>	<u>(650) 522-5569</u>
Address	Telephone Number

333 Lakeside Drive, Foster City, California 94404

Address

Enclosures: ☒ Fee PaymentCharge Account No. 07-1250 the sum of \$1,500.00☐ Reply☐ Terminal Disclaimer Form☐ Additional sheets containing statements establishing unintentional delay☒ Other: Statement of Explanation

## CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (703) 872-9306.MAY 19, 2005  
Date  
Signature

Vicki Collins

Typed or printed name of person signing certificate



## Statement of Explanation

May 19, 2005

In re Application of  
TOMAS CIHLAR  
Application No. 10/086,816  
Filed: February 28, 2002  
Attorney Docket No. 240.1PCD

This is in response to the Decision on Petition Under 37 CFR 1.137(b), date stamped May 4, 2005, which was dismissed by Petitions Examiner, Brian Hearn. The facts are as follows:

- Amendment and Amendment Transmittal dated February 24, 2005, responding to 6 month deadline to outstanding Office Action was inadvertently not mailed on February 24, 2005.
- Due to missing 6 month deadline because of failure to mail envelope containing the Amendment, a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b) was filed on February 28, 2005 which included the Amendment and Amendment Transmittal, bearing the original February 24, 2005 certificates of mailing. In order to keep the integrity of Amendment and Amendment Transmittal, the original date was not altered.
- Due to the length of time passed since Petition filed, Applicant went into online PAIR system to obtain status. The USPTO PAIR system indicated the Petition was dismissed.
- Applicant contacted Examiner for explanation on the Petition being "dismissed" and was provided a copy of the Decision on Petition Under 37 CFR 1.137(b) dated May 4, 2005. Decision stated Amendment was considered timely filed and patent application was not abandoned.
- Since Applicants failed to timely respond to the Office Action within the 6 month period, Applicants respectfully resubmit the Petition and the Statement of Examination, and request that the Patent Office correct the records and accept the Petition for Revival.